

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH DILLMAN, No. CIV S-05-0645-CMK

Plaintiff,

vs.

ORDER

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

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Plaintiff, who is proceeding with retained counsel and in forma pauperis, brings this action for judicial review of a final decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g). On May 3, 2005, the court directed plaintiff to submit completed forms to the U.S. Marshal for service without pre-payment of costs and to file proof of such submission with the court within 15 days. Plaintiff failed to comply. On September 22, 2005, the court directed plaintiff to show cause within 20 days why this action should not be dismissed for lack of prosecution and failure to comply with court orders and rules. See Local Rule 11-110.

To date, plaintiff has failed to respond to the order to show cause.

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1 A review of the docket also reflects that plaintiff has failed to notify the court
2 regarding consent to proceed before a Magistrate Judge. Pursuant to Eastern District of
3 California Local Rules, Appendix A, this case is not assigned a District Judge until and unless the
4 court receives affirmative notice that any party does not consent to Magistrate Judge jurisdiction.
5 Given plaintiff's failure to prosecute this case thus far, it would be futile to direct plaintiff to
6 show cause regarding his failure to notify the court regarding consent. Therefore, the court will
7 direct the random assignment of a District Judge at this time. The court will address plaintiff's
8 lack of prosecution by separate findings and recommendations.

9 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to
10 randomly assign a District Judge to this case and to update the docket to reflect the new case
11 number.

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13 DATED: October 19, 2005.

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16 CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE

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